



17 OCT 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

Herbert B. Keil
Keil & Weinkauff
1101 Connecticut Ave., N.W.
Washington, DC 20036

In re Application of	:	
MARCO THYES	:	
Application No.: 09/889,383	:	DECISION ON PETITION
PCT No.: PCT/EP00/00306	:	
Int. Filing Date: 15 January 2000	:	UNDER 37 CFR 1.181
Priority Date: 22 January 1999	:	
Attorney Docket No.: 0480/01211	:	
For: A PROCESS FOR REDUCING THE	:	
CONTENT OF ETHYL 3-DIMETHYLAMINO-	:	
2-PHENYLPROPIONATE IN SOLUTIONS OF	:	
ETHYL 2-DIMETHYLAMINO-1-PHENYL-3-	:	
CYCLOHEXENE-1-CARBOXYLATE	:	

This is a decision on applicants' "Petition Under 37 CFR 1.181 to Withdraw the Holding of Abandonment" filed in the United States Patent and Trademark Office (USPTO) in the above referenced application on 12 July 2002. No petition fee is required.

BACKGROUND

On 04 September 2001, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and the surcharge for filing the oath or declaration after the thirty month period were required. A two month period of time was set to respond to the Notification with extensions of time available under 37 CFR 1.136(a).

On 08 July 2002, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants indicating that applicants had failed to respond to said Notification of Missing Requirements within the time period set forth.

Applicant submitted the instant petition under 37 CFR 1.181 on 12 July 2002, requesting withdrawal of the holding of abandonment. However, applicant did not provide a copy of the declaration, assignment and canceled check in the amount of \$280 allegedly deposited on 08 November 2001 and received in the USPTO on 05 February 2002 as itemized on the post card receipt.

DISCUSSION

A review of the USPTO application file reveals that Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants on 04 September 2001. A review of the finance records for this application indicates that the \$130 surcharge, \$40 assignment fee and one month extension of time fees were paid on 05 February 2002. However, the executed declaration is not found in the application file.

In his 12 July 2002 submission, applicant alleges that he mailed an executed declaration on 08 November 2001. However, the 08 November 2001 submission is not found in the application file. The 12 July 2002 submission does not include a copy of the allegedly earlier filed declaration but does include "a copy of the date-stamped postcard receipt" for 05 February 2002.

Without the 05 February 2002 submission, the application must be considered abandoned for failure to timely respond to the Notification of Missing Requirements. In requesting withdrawal of the abandonment of the application, applicant must file a renewed petition under 37 CFR 1.181 providing a true copy of the declaration, assignment, the USPTO date-stamped itemized postcard receipt indicating the filing of the declaration on 05 February 2002 as filed.

The evidence submitted is insufficient to establish that the declaration for this application was received in the USPTO on 05 February 2002. Accordingly, it is inappropriate to withdraw the holding of abandonment without a copy of the declaration as a replacement for the missing original declaration with a deposit date of 05 February 2002 at this time.

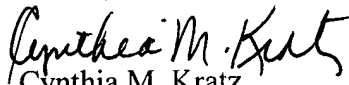
CONCLUSION

For the reasons stated above, the petition under 37 CFR 1.181 is **DISMISSED WITHOUT PREJUDICE.**

The application remains **ABANDONED.**

Any reconsideration on the merits of this petition should be entitled "Renewed Petition under 37 CFR 1.181".

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter marked to the attention of the PCT Legal Office.


Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

CMK/cmk
Telephone: (703) 306-5467